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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,922	12/26/2001	Paul Pedersen	00030-0025	7437
7590	11/13/2003			EXAMINER ADDIE, RAYMOND W
Orange & Chari Suite 4900 66 Wellington Street West P.O. Box 190 Toronto, ON M5K 1H6 CANADA			ART UNIT 3671	PAPER NUMBER DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)
	10/025,992	NOMURA ET AL.
	Examiner Raymond W. Addie	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative,

under 35 U.S.C. 103(a) as obvious over Cook et al. # 5,123,135.

Cook et al. discloses a dock leveler (10) comprising:

A support (22, 24).

A deck (28) pivotally secured to said support (24), for movement between a stored position and an elevated position. See col. 4, Ins. 53-65.

A deck lip (36) pivotally connected to said deck (28) at an end opposite of said deck/support pivotal connection. See col. 6, Ins. 29-31.

A lift mechanism (74) acting on said deck to lift said deck (28) toward an elevated position. See col. 5.

A lip operating mechanism (40, 100, 114,123, 124, 128, 130) connected to said lip to move it from a pendant position to a bridging position between said dock (18) and a carrier bed (20) of a vehicle, upon attainment of said elevated position. See col. 7.

A latch assembly (94, 110, 112, 114, 120) to hold said lip in said bridging position.

Said latch assembly releasing said lip upon relative movement between said lip and said deck and having a yieldable connection (112, 114, 120) to permit limited pivotal movement of said lip and said deck upon application of a force thereto.

See col. 8, Ins. 1-65.

Although Cook et al. does not disclose the lip operating mechanism as being "operatively connected" to said lip to move it from said pendant position to said bridging position upon attainment of said elevated position; Cook et al. does specifically disclose that lip plate (36) is adapted to move between a stored position and a bridging position via a lip operating mechanism (40, 94, 100, 114, 123, 124, 128, 130), such that the lip plate pivoting means includes means for pivoting the lip plate in response to upward movement of main deck (28). Hence, it is obvious, if not inherent, the lip operating mechanism is "operatively connected" to said lip plate for pivoting said lip plate between a stored and a bridging position.

In regards to Claims 2-6 Cook et al. discloses the latch is pivotable from an inactive position to an active position in engagement with the lip upon said deck (28) attaining an elevated position via a latch setting mechanism comprising the yieldable connection cited above with respect to Claim 1 above. Movement of said deck (28) from an elevated position releasing said latch setting mechanism.

Cook et al. further discloses the latch setting mechanism further comprises a lost motion device further comprising a tensile member (107, 104) acting between said support (22) and said deck (28) to accommodate movement of said deck from said elevated position and that the latch setting mechanism pivots said latch into engagement with said lip upon attainment of said elevated position. See col. 7, ln. 57-Col. 8, ln. 65.

In regards Claims 7, 8, 19-21 Cook et al. discloses the yieldable connection of the latch assembly further comprises a latch spring (120) operable to hold said lip (36) in said bridging position and rotational movement of said lip relative to said deck assembly is accommodated by flexure of said latch spring, such that said latch spring acts upon a link (112) mounted on said lip and rotation of said lip beyond a predetermined position relative to said deck causes said link and spring to disengage and permit said lip to move to said pendant position.

In regards to Claims 9-15, 22, 23 Cook et al. discloses the dock leveler further comprises:

A plunger (114), a stop (94) and a counterbalance spring/shock absorber (122); such that said link (112) and latch spring (120) releases said latch to permit said latch to return to said inactive position. Cook et al. further discloses the plunger (114) is operable upon said link (112) and biased into abutment with said link, by said latch

spring (120). Cook et al. further discloses the stop (94) limits movement of said plunger toward said link, such that pivotal movement of said latch assembly (112) beyond an active position is inhibited in order to maintain said plunger (114) in a position for engagement with said link (112). Further Cook et al. discloses the link (112) and plunger (114) have radiussed tips for pivotal engagement, and that the counterbalance and latch spring act in parallel, such that the combined forces of said latch and counter balance spring are sufficient to maintain said lip in said bridging position.

In regards to Claims 16-18 Cook et al. discloses essentially all that is claimed, as put forth with respect to Claims 1-15 above, and further discloses the use of a 1st tensile member, in the form of a pull ring and chain (see col. 8, ln. 66-col. 9, ln.10) acting between said support frame (22) and said lip (36) to initiate movement from said pendant position as said deck assembly approaches an elevated position.

Cook et al., still further discloses the latch assembly (94, 112, 114) is moved to said active position by second tensile member.

Response to Amendment

2. Applicant's amendment to claim 1 has overcome the Claim Objections of the Last Office Action.

Response to Arguments

3. Applicant's arguments filed 9/22/2003 have been fully considered but they are not persuasive.

Applicant correlates the mechanism shown in Figure 9 of the Cook et al. reference to the lip operating mechanism recited in claim 1.

However, the Examiner does not concur.

Cook et al. clearly discloses the lip extension means a.k.a a lip operating mechanism; "includes...compression spring (120)... counterbalance rod (123)...angle iron (124)... washer (128)...nut (130)" as well as hinge tube (40). See col. 8, Ins. 24-41.

Therefore, since the disclosed lip extension means is not illustrated in Figure 9; the correlation is not persuasive.

Applicant then argues "Cook does not disclose a latch as recited in Claims 1 and 16 that holds the lip in the bridging position".

The Applicant supports the argument by stating "In Cook there is simply disclosed the lip operating mechanism but no structure that acts to latch the lip in position once it has attained the extended position under the influence of the lip operating mechanism".

However, in Col. 7, Ins. 59-61 Cook et al. positively recites "the lip plate pivoting means includes means for maintaining the lip plate in the second position at time when the main deck is in its second position".

Hence, the argument is not persuasive.

Applicant further suggests "In the Cook reference, movement of the deck releases the tension in the chain 104 to allow pivotal movement of the arm 94 and thereby allow downward movement of the lip relative to the deck".

Applicant contrasts the claimed invention from the prior art by stating "in the invention disclosed, the latch indicated at 120 holds the lip in the extended position even when the tension on the chain 104 is released... There is therefore no equivalent structure found in the Cook reference to perform this function".

However, the argument is not supported by the claims. Specifically, Claim 1 recites "said latch releasing said lip upon relative movement between said lip and said deck assembly and having a yieldable connection to permit limited pivotal movement between said lip and said deck assembly upon application of a force thereto".

Hence, the claims specifically require limited movement when a force is applied to the dock leveler; which directly contradicts the Applicant's argument that the latch holds the lip in the extended position even when the tension on the chain 104 is released.

Therefore, the argument is not persuasive and the rejection is upheld.

Applicant final argument suggests "the deck in Cook appears to be dependent on the angular position of the deck assembly so that as the deck assembly is 'walked down'

into engagement with the truck body, there is corresponding change in the disposition of the lip relative to the deck".

However, Applicant's account of the prior art teaching is not complete.

The actual recitation reads:

"It is a further object of this invention to provide a lip extension mechanism that will maintain the lip plate in the bridging position to allow the dock leveler to be walked down into engagement with the carrier bed".

Hence, the lip plate is already "latched/maintained" in the bridging position before the dock leveler is "walked down"; which is only an alternative method for lowering the dock leveler into engagement with a vehicle to be loaded or unloaded.

Therefore, the argument is not persuasive and the rejection is upheld.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600